

02.02.2023
Sl. No.11
akd
[ALLOWED]

C. R. M. (NDPS) 106 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 17.01.2023 in connection with New Barrackpore Police Station Case No. 27 of 2020 dated 26.01.2020 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.09 of 2020)

And

In Re: ***Dipak Shaw***

... .. Petitioner

Mr. Uddipan Banerjee

... .. for the petitioner

Mr. T. D. Nandy
Mr. Antarikhya Basu

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than three years. It is further submitted there is inordinate delay in trial.

Report is placed on record.

We have considered the materials on record including the report. From the report it appears chemical examiner's report was submitted only on 05.12.2022. Though co-accused was absconding, it is undeniable in the absence of chemical examiner's report which has been filed only in December, 2022, there was no possibility of the trial proceeding against the petitioner. Primarily on the ground of non-submission of chemical examiner's report, charge could not be framed. He is languishing in jail for more than three years. This clearly demonstrates breach of fundamental right of the petitioner to speedy trial under Article 121 of the Constitution of India. Bail prayer of the petitioner on this score is not fettered under Section 37 of the NDPS Act. Under such circumstances, we are inclined to grant bail to the petitioner.

Therefore, the accused/petitioner, namely ***Dipak Shaw***, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act, Barrackpore, North 24-Parganas subject to condition that the said petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever or commit similar offences in future.

In the event he fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application for bail, thus, stands **allowed**.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)